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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,140	07/26/2001	Tai-Ying Chiang	SUNP0003USA	4324
7812	7590	04/08/2005	EXAMINER	
SMITH-HILL AND BEDELL 12670 N W BARNES ROAD SUITE 104 PORTLAND, OR 97229			WOOD, WILLIAM H	
			ART UNIT	PAPER NUMBER
			2193	

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/682,140

Applicant(s)

CHIANG ET AL.

Examiner

William H. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-30 are pending and have been examined.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 11-14 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Clark** (USPN 5,297,150) in view of **Shimomura** (USPN 5,854,925) as recited in the previous office action mailed 14 July 2004.

3. Claims 5-10, 15-20 and 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Clark** (USPN 5,297,150) in view of **Shimomura** (USPN 5,854,925) and in further view of **Cuddihy et al.** (USPN 5,463,768) as recited in the previous office action mailed 14 July 2004.

Response to Arguments

4. Applicant's arguments filed 08 September 2004 have been fully considered but they are not persuasive. Applicant argued in regard to claim 1: ¹⁾ **Clark** fails to show program statements associated with likelihood of causing an error; ²⁾ it is not obvious to

combine **Clark** and **Shimomura** with regard to indicate error value in code; ³⁾ **Clark** does not show an error set of relationally connected statements; and ⁴⁾ **Clark** failed to indicate assigning values to statements based on probability of causing an error.

It is respectfully disagreed that **Clark** and **Shimomura** fail to demonstrate Applicant's claimed invention. **Clark** disclosed flow graphs composed of statements, which are relationally connected (the nature of connecting nodes of the graph) to the error disclosed by **Shimomura**. Both, **Shimomura** and **Clark** are using flow graphs. **Clark** provided weighting to indicate likelihood of error. Even if complexity is the underlying factor in **Clark**, it still demonstrates a system of probability in failure. Failure stemming from the error provided by **Shimomura**. Failure and error are thus obviously related and so is the combination as set forth in the original rejections.

Applicant further argued, regarding other claims: ¹⁾ no disclosure of proper ranking order (as in claim 2); ²⁾ **Clark** does not indicate "priority value" (as disclosed by claim 3); ³⁾ no error set and only showing of complexity rankings in **Clark** (as recited in claim 4) and further no motivation for priority of execution cycles; ⁴⁾ no indication of correct values and no indication of scaling functions (as recited in claim 5); ⁵⁾ no adding a constant (as in claim 6); ⁶⁾ no indications of "error set" and "second sensitized set" probabilities of errors (as for claim 7); ⁷⁾ no disclosure of revision based on plurality of cycles (as indicated in claim 8); and ⁸⁾ no properly disclosed by prior art.

It is respectfully disagreed that the prior art of record fails to demonstrate Applicant's claimed invention. First, the cited portions of **Clark** indicate a decreasing order as do the claims. Complexity is factor in the determination of probability of error

as discussed above. Second, "priority value" is disclosed as discussed above for claim 1. Third, error set and complexity are discussed above. "Prior experience" very clearly indicates previous "execution cycles" or a plurality of execution cycles. Fourth, scaling is clear through "prior experience" revision as shown in **Clark**. Further, correct values as demonstrated in the previous Office Action are shown through *historical* sensitized set values in the table 1. As originally interpreted the past occurrences produce "correct" values. Sixth, a constant of zero is demonstrated in column 5, lines 33-34 of **Cuddihy**. Seventh, once again revision (a repetitive process of assigning the values requiring multiple cycles for processing) is clear from the cited passage of **Clark**. And eighth, the passage of **Clark** gives no indication of not being correct in its assignment of variables.

Thus, the rejections are maintained as the prior art of record is read upon by the broadest reasonable interpretation of Applicant's claimed invention.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (571)-272-3736. The examiner can normally be reached 9:00am - 5:30pm Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571)-272-3719. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9306 for regular communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.


William H. Wood
April 1, 2005



**KAKALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100**